

United States District Court  
Northern District of California

Case No. 17-cv-00381-BLF

**ORDER GRANTING DEFENDANT  
IMWALLE'S MOTION FOR  
ADMINISTRATIVE RELIEF;  
VACATING PRIOR ORDER DATED  
MAY 10, 2017; AND REINSTATING  
DEFENDANT IMWALLE'S MOTION  
TO DISMISS**

[Re: ECF 33]

Defendants.

On May 19, 2017, Imwalle filed an administrative motion seeking clarification of the Court's Order Striking Motion to Dismiss. Def.'s Admin. Motion, ECF 33. Specifically, Imwalle


1 requests clarification as to whether General Order 56 stays its obligation to respond to the  
2 complaint pending completion of the site inspection and mediation required under General Order  
3 56. *Id.* Imwalle states that Che has threatened to seek a Clerk's entry of default if Imwalle does  
4 not file an answer to the complaint. *Id.* Imwalle argues that it is entitled to respond to the  
5 complaint by motion, and that because the Court struck its motion to dismiss as premature, the  
6 Court should either clarify that Imwalle's obligation to respond to the complaint is stayed by  
7 General Order 56 or should enlarge Imwalle's deadline to respond until such time as the motion  
8 properly may be filed. Che has not opposed Imwalle's administrative motion and the time to file  
9 opposition has elapsed. *See* Civ. L.R. 7-11 (response to administrative motion due within four  
10 days).

11       Upon further review of General Order 56, the Court concludes that the language imposing  
12 a stay on "[a]ll other discovery and proceedings" does not clearly encompass the filing of an  
13 answer or motion in response to a complaint. At least one court in this district has concluded  
14 expressly that the language stays only discovery proceedings. *See Morales v. Whole Foods*  
15 *Market*, 897 F. Supp. 2d 987, 993 n.2 (N.D. Cal. 2012) (holding that the cited language "plainly  
16 refers to discovery issues, and does not bar a defendant from moving to dismiss on *res judicata*  
17 grounds"). Accordingly, the Court VACATES its Order Striking Motion to Dismiss and  
18 REINSTATES Imwalle's motion.

19       Che's application to compel Imwalle's compliance with General Order 56 asserted that  
20 Che cannot respond to Imwalle's motion prior to the site inspection. Che's argument on that point  
21 is well-taken. Accordingly, the deadline for Che's opposition to Imwalle's motion to dismiss is  
22 extended until fourteen days after completion of the site inspection. Any reply shall be filed  
23 within seven days after the opposition is filed. The motion to dismiss will be taken under  
24 submission without oral argument unless the parties are advised otherwise by the Court.

25       **IT IS SO ORDERED.**

26       Dated: May 26, 2017

27         
28       BETH LABSON FREEMAN  
United States District Judge